

MEMORANDUM of UNDERSTANDING
Between
NATIONAL MARINE FISHERIES SERVICE
And
STATE OF WASHINGTON
SALMON RECOVERY FUNDING BOARD
INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION OFFICES
On the
PACIFIC COASTAL SALMON RECOVERY FUND

INTRODUCTION

This Memorandum of Understanding (MOU) is entered into by the National Marine Fisheries Service (NMFS), a federal agency within the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) and the Salmon Recovery Funding Board (the Board), acting by and through the State of Washington Interagency Committee for Outdoor Recreation (the IAC), a state agency. NMFS and the Board enter this MOU pursuant to authorities under the Endangered Species Act (ESA) in furtherance of 16 U.S.C. 3645(d)(2) and Congressional intent and authorizations for the Pacific Coastal Salmon Recovery Fund (PCSRF), RCW 74.46.160 and other relevant federal and state authority.

This MOU provides the basis for the orderly and effective state allocation of PCSRF funds for the recovery of salmonids in Washington. Specifically, this MOU will address how PCSRF funds provided to the Board on behalf of the State of Washington and administered by the IAC will be allocated by the Board. These funds are for eligible salmon and steelhead recovery activities and projects authorized by 16 U.S.C. 3645(d)(2), Congressional intent, and PCSRF goals and objectives.

PARTIES

The Board enters into this MOU acting by and through its Administrative Office, the IAC. The Board was formed in 1999 by the Washington State Legislature, pursuant to Chapter 75.46 RCW. Additional description of the Board is included in the attached Exhibit A and incorporated herein. [Exhibit A - Washington State Salmon Recovery Funding Board, "The SRFB Mission, Roles and Responsibilities, and Funding Strategy" (Amended September 7, 2001)].

NMFS enters into this MOU through its Northwest Regional Office, which has primary day-to-day responsibility for federal activities related to the protection and recovery of

salmon populations in the Pacific Northwest.

PURPOSE AND GOALS

This MOU sets forth the Board's strategy for the efficient allocation of funds for projects and activities and describes the selection process and criteria used to allocate PCSRF funds consistent with 16 U.S.C. 3645(d)(2), PCSRF performance goals, and Congressional intent.

This Board Strategy outlines the process that will be used to identify projects and activities eligible for PCSRF funding. To avoid automatic federal review of each project, the Board will implement the project and activities funding process in accordance with this strategy. The Board will allocate funding only to projects and activities that can provide measurable benefits to the protection and restoration of salmonid species in Washington State. Further, it is the intent of the parties to this MOU to encourage conservation planning and implementation efforts that support ESA salmon recovery.

This MOU is not the mechanism by which federal funds will be issued to the State. Issuance of federal funds to the IAC to implement Board activities shall be done using a separate funding instrument between NOAA and the IAC.

PROJECT FUNDING PROCESS

Overall Board Strategies for Expenditure of Funds

The Board will carry out its mission by funding habitat projects and activities that protect, preserve, restore and enhance salmon habitat and watershed functions. The Board will also fund activities that are integrally related to protecting or improving salmon habitat, especially those that increase the certainty and effectiveness of habitat projects.

The Board recognizes that local efforts are key to the success of salmon recovery and are essential in ensuring the best projects are proposed to the Board for funding in its annual grant process. The Board uses local organizations called lead entities. These organizations are required to develop a strategy, and identify and prioritize projects. Lead entities use local technical experts to evaluate the technical merits and certainty of project technical success and local citizen committees to evaluate projects to ensure priorities and projects have the necessary community support for success. Board decisions will be based on science and the Board will foster inclusion and coordination of scientific support at all levels of salmon recovery.

The Board will use the following strategies to seek to assure that the projects and activities funded are of the highest quality. In applying these strategies, the Board will give due deference to the prioritization work being performed by local watershed organizations and will support projects and activities that are likely to provide the greatest benefit to salmon recovery based upon the stock status information contained in the Washington State Department of Fish and Wildlife Salmonid Stock Inventory System, the Salmon and Steelhead Habitat Inventory and Assessment project, NMFS

Technical Recovery Team reports, and any comparable science-based assessment. Projects and activities should benefit salmonids listed under the Endangered Species Act. Projects will restore or preserve high quality salmonid habitats. In addition, the Board will work with scientists to develop a framework of ecological principles that can serve as a foundation for Board adaptive management and decisions on salmon recovery projects, and activities.

Fish and Watershed Benefits: Projects and activities will be evaluated on their contribution to salmon recovery, based on the anticipated benefits to fish and watershed health, and cost-effectiveness of the action. Actions that support species of fish listed under the Endangered Species Act (ESA) and the health of their habitats will receive preference in funding decisions. Best available science should guide the design and evaluation of all projects and activities.

Preservation Priority: Protection of existing high quality habitat and watershed health is necessary to support existing salmon populations and stem their decline. Preservation of existing high quality habitats and critical watershed processes are preferred by the Board in funding projects and activities during the initial phases of salmon recovery.

Restoration: Proposals to restore poorly functioning habitat should complement the protection of existing high quality habitats in a watershed, and be accompanied by sufficient scientific information to indicate the importance of the project or activity and long-term likelihood of success.

Coordination, Integration and Leverage: Coordination across all levels of government and geographic scales is necessary to create policy decisions that integrate multiple interests and the effective use of science for salmon recovery. Limited financial and human resources should foster creativity and sharing across programs and organizations. Actions will be preferred that increase coordination, integrate efforts and leverage resources.

Monitoring and Adaptive Management: Projects and activities must include measurable performance objectives and meet PCSRF performance goals. Individually and/or collectively, projects and activities will be monitored and evaluated to determine their success in achieving intended outcomes, and adaptive management will be used to adjust actions where the results are not meeting the objectives. The intent is to have demonstrable and measurable benefits to the recovery of ESA listed salmon and steelhead.

Watershed Implementation: Local watershed efforts are key to the implementation of salmon recovery and must be supported to increase their effectiveness. Funding processes must be consistent, predictable and stable to increase the ability of local groups to perform meaningful recovery actions.

Regional Priorities: Salmon runs and other fish populations rely on a system of functioning watersheds to survive over the long-term. Coordination across watersheds

within the state salmon recovery regions is critical to set priorities and determine the best use of limited habitat funds.

Science: Salmon recovery inherently contains many unknowns and the potential for errors in funding decisions and actions. Science can provide insight into the level of certainty and risk that specific actions can produce timely, beneficial results. The Board will use science to help make policy decisions that balance the uncertainty of an action's benefit with the potential opportunity to help the fish.

Covered Projects and Activities. 16 U.S.C. 3645(d)(2) authorizes funding for projects with demonstrable and measurable benefits to recovery of ESA listed salmon and steelhead. Priority will be given for projects that: (1) support and implement recovery plans and (2) that resolve the factors limiting recovery of ESA listed salmon and steelhead. These projects may include salmon habitat restoration, assessments, salmon stock enhancement, and salmon research, including the construction of salmon research and related facilities. The Board also will fund activities identified in congressional appropriations language (such as the Forest and Fish Agreement) and consider priority activities identified by NMFS (such as coordinated regional recovery capacity and drought relief). Projects demonstrated to be consistent with 16 U.S.C. 3645(d)(2), other congressional authorization, PCSRF performance goals and within applicable scope and criteria established by the Board will be deemed eligible and may be funded.

Project Proposals. The Board shall seek applications from eligible applicants (state and local governments, tribes and non-profit organizations). The Board will use locally based processes for the development of project lists. This will include use of the Lead Entity system under state law. The Lead Entities are required to establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. These committees will establish and develop priority projects for their region.

Activity Proposals. The Board will consider activity proposals from local and state governments, tribes, and non-profit organizations and on-going support for regional recovery planning. Activity proposals include proposals that do not directly perform salmon restoration or protection, but which provide related information or funds to monitor salmon recovery or provide better on-the-ground projects. Activity proposals may include statewide activities such as: monitoring and evaluation, adaptive management, engineering services, guideline development, technical assistance, recovery planning, ensuring instream flows, and implementation of the Forest and Fish Agreement.

Project and Activities Approval. Based on input from the local processes and scientists, the Board will make the final decision regarding which projects and activities will be funded. Science will be incorporated throughout the process at both the local and the state level. The allocation of funds will address both protection and restoration of habitat, and will recognize the varying needs in each area of the state on an

equitable basis. All projects and activities funded with PCSRF funds will be consistent with this MOU and PCSRF performance goals.

ADMINISTRATION

Grants to Project Applicants

The IAC shall serve as the recipient and administrator of the PCSRF funds on behalf of the Board. The IAC will disburse funds through written sub-agreements with funded applicants.

The IAC will supplement the federal funds with a minimum of 25% in non-federal matching funds.

All terms and conditions of sub-agreements with funded applicants shall be at the discretion of the Board, consistent with any terms and conditions of the NOAA funding instrument and applicable federal and state law.

Board Administration Expenses

The Board will expend not more than 3% of the federal funds for administrative expenses. As IAC administers its grant program the majority of the grant administration occurs prior to the disbursement of grant funds, therefore, IAC is allowed to draw down the PCSRF administrative funds as needed, so long as SRFB expends no more than 3% PCSRF administration of the federal direct costs by the end date of the grant award.

It is recognized that 3% is not sufficient funding for effective and expedient administration of a grant program or single activity of this size. Thus, IAC will integrate administration of PCSRF funds received by the State into its existing grant administrative program. NOAA recognizes the recipient as a single indirect cost activity according to the OMB Circular A-87 Attachment B at B.8.h (2), which states "no further documentation is required for the salaries and wages of employees who work in a single indirect cost activity." IAC will document administrative costs charged to the State and administrative costs charged to the PCSRF with the submission of the SF 269 and 272 financial reports.

ENDANGERED SPECIES ACT CONSULTATIONS

Execution of this MOU does not imply any authorization of incidental "take" of listed species under the ESA. Section 7 consultations will be undertaken by NMFS on projects and activities that may adversely affect ESA listed species. Upon request, the IAC will provide project grant application and agreement information for ESA consultation to NMFS and include stipulations in each sub-agreement that construction should not commence unless and until an ESA consultation has been completed. NMFS will assign dedicated staff to ESA consultations using PCSRF funds. NMFS will develop procedures to ensure that ESA consultations are conducted in a timely and efficient manner.

PERFORMANCE GOALS AND OBJECTIVES

Projects funded under this MOU will conform to the PCSRF performance goals and objectives.

REPORTING

The Board will update the NMFS PCSRF database as new or modified project information becomes available, or at least quarterly, so that the PCSRF database contains accurate descriptions and performance metrics for all completed, ongoing, and proposed projects. On a quarterly basis, the Board will download and complete the PCSRF fiscal verification report and submit it to NMFS.

The Board will provide NMFS a copy of all Board reports and State reports regarding salmonid recovery efforts that are broadly distributed.

ORDER OF PRECEDENCE

Interpretation of this MOU shall occur by giving precedence in the following order:

Applicable federal and state of Washington statutes and regulations, as they now exist or as hereafter modified.

This MOU instrument.

Exhibit A - Washington State Salmon Recovery Funding Board "SRFB Mission, Roles and Responsibilities, and Funding Strategy (amended September 7, 2001) as it now exists or as hereafter modified.

Any other provision, term or material incorporated herein by reference or otherwise incorporated.

MOU MANAGEMENT

The MOU Manager for each of the parties shall be the contact person for all communications and notices regarding the performance of this MOU:

For NMFS: Joe Scordino
Deputy Regional Administrator
NMFS - Northwest Regional Office
7600 Sand Point Way
Seattle, WA 98115
206-526-6150

For IAC: Bruce Crawford
Associate Director
Interagency Committee for Outdoor Recreation
Box 40917
Olympia, WA 98504
360-902-3003

SEVERABILITY

If any portion of this MOU or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this MOU which can be given effect without the invalid provision, and to this end the provisions of this MOU are declared to be severable.

DISPUTE RESOLUTION

In the event a dispute arises involving the terms of this MOU, the IAC Director and the NMFS Regional Administrator, shall meet and attempt in good faith to resolve the matter.

THIRD PARTY BENEFICIARIES

This MOU is not intended to confer benefits upon, or be subject to enforcement by third parties.

SAVINGS

The obligations of the parties to this MOU are contingent upon appropriation of necessary funds by Congress, with respect to NMFS and by the Washington legislature, with respect to the Board and IAC, and subject to any budgetary limitation that may arise.

WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this MOU unless stated to be such in writing signed by an authorized representative of the party making such a waiver.

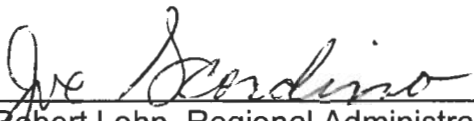
ALTERATIONS AND AMENDMENTS

This MOU may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by the IAC Director and NMFS Regional Administrator.

IMPLEMENTATION

This MOU is effective as of the date signed by all parties.

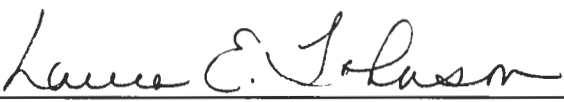
NATIONAL MARINE FISHERIES SERVICE

for 

D. Robert Lohn, Regional Administrator
NMFS Northwest Regional Office

6/23/05
Date

INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION, on behalf of the SALMON RECOVERY FUNDING BOARD



Laura E. Johnson, Director
Interagency Committee for Outdoor Recreation

6/22/05
Date

APPROVED AS TO FORM ONLY
State of Washington
Office of the Attorney General

Mary Ellen Combo
Assistant Attorney General